



# Public Utility Commission of Texas

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Pat Wood, III  
DOCKET FILE COPY ORIGINAL

Judy Walsh  
Commissioner

Patricia A. Curran  
Commissioner

May 11, 1998

Ms. Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
1919 M. Street, N.W., Room 222  
Washington, D.C. 20554

RE: CC Docket No. 96-45 and 97-160  
In the Matter of  
Federal-State Joint Board  
on Universal Service  
Public Notice, DA 98-715

To Ms. Salas:

Enclosed herewith for filing with the Commission are an original plus five copies of the Comments of the Public Utility Commission of Texas in the above captioned matter. We are also providing copies to ITS and individuals indicated on the attached service list.

Sincerely,

A handwritten signature in cursive script that reads "Pam Whittington".

Pam Whittington  
Assistant Director  
Office of Policy Development

cc: ITS, Inc.  
Service List



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**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

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|---------------------------|---|----------------------|
| In the Matter of          | ) |                      |
|                           | ) |                      |
| Federal-State Joint Board | ) | CC Docket No. 96-45  |
| on Universal Service      | ) | CC Docket No. 97-160 |
|                           | ) | DA 98-715            |
|                           | ) |                      |

**COMMENTS OF THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ON THE COMMISSION'S PUBLIC NOTICE  
ON UNIVERSAL SERVICE SUPPORT MECHANISMS**

**Introduction**

In Public Notice DA 98-715, "Common Carrier Bureau Seeks Comment On Proposals To Revise The Methodology For Determining Universal Service Support,"<sup>1</sup> the Bureau seeks to augment the record that has developed since the Commission's *Universal Service Order*<sup>2</sup> in two ways. First, the Bureau encourages interested parties to submit additional proposals for modifying the Commission's methodology for determining the appropriate level of federal universal service support that non-rural carriers will receive beginning January 1, 1999. Second, the Public Notice seeks comments and reply comments by interested parties on the various proposals. The Public Utility Commission of Texas (PUCT), having been given general regulatory authority over public utilities within our jurisdiction in Texas, herein provides its observations and comments on the high cost distribution methodologies currently before the Common Carrier Bureau and the Commission.

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<sup>1</sup> Public Notice; Common Carrier Bureau Seeks Comment on Proposals to Revise the Methodology for Determining Universal Service Support; CC Docket Nos. 96-45 and 97-160; DA 98-715; April 15, 1998.

<sup>2</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report & Order, FCC 97-157, ("Universal Service Order"), May 7, 1997.



### **Texas PUC's Continuing Interest In This Proceeding**

The PUCT has displayed consistent interest through its previous comments (as summarized in Attachment A) regarding the need for adequate federal USF support for rural and high cost areas. Texas has many unique geographic and demographic properties that cause our telecommunications carriers to be faced with complex universal service challenges. Despite being the second most populous state, Texas has an incredibly large rural area, containing many local exchanges that are very costly to serve. As a result, local exchange carriers in Texas receive more support from the current federal USF than in any other state. Because our state has a greater number of persons served in high cost, low density, rural areas, it is likely that any reasonable plan for distribution of federal high cost support in the future will continue to include Texas' carriers as major recipients.

Throughout all the universal service proceedings, the Texas PUC has urged the FCC to recognize the need for federal support of high cost rural areas of our state and of the nation as a whole. We believe there is a special need for cooperation between federal and state regulators on the issue of universal service, as we are cast in our respective roles through federal and state statutes.

#### **I. Additional Proposals to Revise the Methodology**

The Texas USF Plan remains under construction. Since we have not yet completed this proceeding, we will not be expressing a preference in these Comments on the details of a distribution plan, such as the specific model or type of benchmarks to be used. The Texas PUC has been analyzing the universal service / high cost support issue on a parallel track to that of the



FCC, having approved our Universal Service rules<sup>3</sup> in December 1997. Following the adoption of those rules, we have been involved in a further proceeding<sup>4</sup> to resolve the details of implementation of support mechanisms. We have amassed a great deal of sworn testimony and evidence from interested parties regarding esoteric topics familiar to this Commission proceeding; e.g., forward-looking economic cost models and their hundreds of inputs, revenue streams and benchmarks, and the intricacies of CBGs, clusters, and wire centers.

## **II. Evaluating the Alternative Proposals**

We appreciate the opportunity to express our views on the alternative distribution methods that have been submitted in response to the Commission's Public Notice.<sup>5</sup> This proceeding has seen its share of policy objectives and guidelines. However, we take this opportunity to offer three more common sense guidelines for the Commission to consider when evaluating the alternative proposals:

1. A Sufficient First Step in the Process to Remove Implicit Subsidies -- Some parties have urged the Commission to adopt a methodology that arguably removes all implicit subsidies, and results in an extremely large fund. Some of these proposals ignore the existence of a tremendous amount of joint and common costs in telecommunications plant facilities that tend to distort any analysis of true subsidies. Any attempt to remove all implicit subsidies now could institutionalize all current support before a

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<sup>3</sup> Revision of Public Utility Commission of Texas Substantive Rules, P.U.C. SUBST. R. 23.131, 23.133, 23.134, 23.136, 23.138, 23.142, 23.143, 23.144, 23.145, 23.147, 23.148, 23.150; Project No. 14929.

<sup>4</sup> *Compliance Proceeding for Implementation of the Texas High Cost Universal Service Plan*, Docket No. 18515.

<sup>5</sup> At the time these Comments are adopted, the Texas PUC has reviewed proposals as contained in the Public Notice as well as those filed by the Ad Hoc Working Group, Arizona Corporation Commission, BellSouth Corporation, Colorado Public Utility Commission Staff, GTE, South Dakota Public Utilities Commission, John Staurulakis, Inc., TIAP, Time Warner, and USWest.



determination of the actual amount of required subsidy for universal service. A massive federal fund may inhibit development of the most efficient costs and thereby serve to hinder rather than help efforts to bring the benefits of competition to local exchange markets. The Texas PUC suggests a more cautious approach that does not attempt to shift huge revenue streams, but takes a sufficient first step in a process which will continue as additional subsidies are identified and as additional competition enters the market and drives costs down.

2. Equity -- Put simply, customer loops in similarly situated high cost geographic areas in two different states should receive a reasonably similar amount of support. That is not to say that high cost loops in Texas must receive exactly the same amount of support as those in other states. However, the logic of a plan fails when high cost loops in Texas receive little or no support even though they may be similarly situated to loops in other states that receive significant support.
3. Impact on customers -- Congress' first principle for universal service support involves "just, reasonable, and affordable rates." The Commission should adopt a mechanism that balances the need for federal support for customers in high cost areas with the impact of its program on basic local rates as a whole.

With these additional suggestions in mind, the Texas PUC respectfully offers its comments on the alternative distribution methodologies resulting from the Public Notice.



### **The Current (May 1997) Methodology**

As expressed previously in our Petition for Reconsideration of the Commission's Universal Service Order, we do not believe that the federal share of universal service support for providing service to high cost areas should be limited to 25 percent. Further, we disagree with the Commission's decision to offset a carrier's high cost support revenue with offsets to interstate access charges.<sup>6</sup> The methodology adopted by the Commission represents a disastrous departure from past levels of USF support that can only be rectified by increases in customers' intrastate rates.

### **Ad Hoc Working Group Proposal <sup>7</sup>**

This option is designed to support states with average costs above an established nationwide average. Earlier versions of this proposal included excessive reliance on incumbent carriers' embedded costs, which now appear to have been removed. The plan is designed to address high cost concerns of both the rural and non-rural carriers. The plan includes "hold harmless" calculations that purport to make the proposal more acceptable to certain states. The Texas PUC has significant concerns about the fundamental basis for this proposal. We do not believe federal USF support should be limited to high cost states, but should be provided to support customers in high cost areas of the nation, regardless of the average costs of the state in which they reside. We do not agree that the "hold harmless" provisions adequately patch up the shortcomings of this plan.

### **Arizona Corporation Commission <sup>8</sup>**

The Arizona Corporation Commission has proposed a significant change in targeting the USF support amount to include non-recurring line extension or construction charges for low-income customers. Many such situations exist in Texas, and we recognize the need to address

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<sup>6</sup> *In the Matter of Access Charge Reform*, CC Docket No. 96-262, First Report and Order, FCC 97-158, adopted May 7, 1997, para. 381.

<sup>7</sup> Submission by Thomas J. Dunleavy and Thomas L. Welch on behalf of the NARUC Ad Hoc Working Group on High Cost Support; CC Dockets 96-45 and 97-160, April 27, 1998.

<sup>8</sup> Proposal of the Arizona Corporation Commission for Distribution of Federal USF Funds to Establish Service to Low-Income Customers in Unserved Areas; CC Dockets 96-45 and 97-160, April 27, 1998.



those concerns that limit subscribership. It is our view, however, that those issues would be better addressed through low-income or lifeline support programs rather than in this high-cost plan.

#### **BellSouth Proposal<sup>9</sup>**

The BellSouth proposal defines the amount of support provided by the federal support fund as the amount that is included in interstate access charges -- CCL and PICC -- and sizes the fund accordingly. The Texas PUC has not had sufficient time to examine the dollar impact of this proposal on state or federal funding, and will withhold comment on the plan at this time.

#### **GTE Proposal<sup>10</sup>**

GTE proposes that the Commission establish a sliding scale of benchmarks and percentages for federal support. GTE urges the Commission to adopt a plan that meets seven specified criteria, including the objective that implicit subsidies should be eliminated through the use of the mechanism, that the federal plan must reflect the ILEC's actual costs of providing universal service, and that support should be sufficient to generate revenues at least as large as the contribution currently provided through other services. GTE's proposal would appear to establish a fund size in excess of \$6 billion. The Texas PUC cannot agree with a fund size of the magnitude described by GTE. In a competitive telecommunications framework, support funding cannot be designed to replace existing revenue streams based on embedded costs.

The Texas PUC does generally agree with GTE's proposed concept of sliding scales of benchmarks and percentages, and their recommendation that the choice of benchmarks and percentages should be made only after the cost model platform and input decisions are made.

#### **South Dakota PUC<sup>11</sup> -- Variable Benchmark Option**

Under the Variable Benchmark Option, the federal high cost program would supply 100 percent of the funding support to areas served by non-rural LECs whose costs to serve an area

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<sup>9</sup> Comments, BellSouth Corporation et al, CC Dockets 96-45 and 97-160, April 27, 1998.

<sup>10</sup> Proposal of GTE, CC Dockets 96-45 and 97-160, GTE Service Corporation et al., April 27, 1998.

<sup>11</sup> Additional Proposals; Comments of the South Dakota Public Utilities Commission, CC Dockets 96-45 and 97-160, April 27, 1998.



exceed a benchmark that varies from state to state. This option offers a great deal of flexibility in sizing and targeting federal USF support. It represents the closest approximation of the high-benchmark suggestions that we suggested in earlier comments in this proceeding. We believe this option has merit and should be considered in addition to beneficial features in other plans.

We also agree that it is meaningless to calculate a total fund size or a state-by-state distribution of support resulting from use of this option without resolving the cost model platform issues, choice of inputs, geographical support area and the methodology(ies) for varying the benchmark.

#### **South Dakota PUC -- Variable Support Option**

Similar to other variable or sliding-scale plans, this option would vary the percentage of support assigned to the federal fund. This option also offers flexibility of sizing and targeting the federal fund. We believe this option has merit and should receive further consideration in addition to beneficial features in other plans.

#### **John Staurulakis, Inc. (JSI) <sup>12</sup>**

JSI's comments do not advance an alternative *per se*, but offer four principles for guidance in revising the program. The Texas PUC offers no comment on their plan at this time.

#### **TIAP Options Paper<sup>13</sup> -- 40/60 Proposal**

The Telecommunications Industries Analysis Project has collected and provided numerical comparison of a number of alternative federal USF plans. The 40/60 Proposal contained in the TIAP analysis appears to be a simple variation of the current 25% support proposal adopted by the Commission. While it would increase the amount of support available from the federal fund, this plan in itself would not have the flexibility of some of the other plans discussed in the Public Notice and in responding proposals and options.

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<sup>12</sup> Comments of John Staurulakis, Inc., CC Dockets 96-45 and 97-160, April 27, 1998.

<sup>13</sup> Submission by Carol Weinhaus on behalf of the Telecommunications Industries Analysis Project ("TIAP"); CC Dockets 96-45 and 97-160, April 23, 1998



### **TIAP Options Paper -- Density Zone Proposal**

This option, as displayed in the TIAP options filing, targets federal funds for the least populated areas of the country where costs are highest and where competition will probably develop more slowly, if at all. The Texas PUC would support the establishment of density thresholds above which no federal support would be available. We are not confident that density can be used as a singular determinant of high cost support, but density factors or zones might best be used in conjunction with one or more other distribution mechanisms.

### **TIAP Options Paper -- Telephone Number Proposal**

Although this option is included in the TIAP filing and the Public Notice, it does not appear to represent a high cost support distribution mechanism, but instead, a mechanism for recovering the support for the fund. We offer no opinion on this item.

### **TIAP Options Paper -- Percentage of Retail Revenues Proposal**

This option also appears to be a mechanism for recovery of the fund rather than a means for distributing high cost support. We offer no opinion on this item.

### **Time Warner Proposal <sup>14</sup>**

Time Warner's proposal is narrowly focused on the need to revise the Commission's methodology to account for the greater ability of households in high-income areas to pay for basic telephone service. The proposal includes a study that evaluates the impact of limiting the funding for areas with average median income above, as an example, the 70th percentile. Because of the short time interval in response to the Public Notice and receipt of the Time Warner alternative, the Texas PUC will not comment on the merits of this proposal.

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<sup>14</sup> Comments Regarding Universal Service Methodology, CC Dockets 96-45 and 97-160, Time Warner Communications Holdings, Inc., April 27, 1998.



### **U S West's IHCAP Proposal**<sup>15</sup>

U S West has proposed (in summary) that the amount of federal high cost support be computed by using a forward-looking cost model, establishing two benchmarks, and utilizing the federal fund to support 50% of the amount between the benchmarks and 100% of amount over the highest benchmark. This proposal, or a variation thereof, deserves further consideration. It is similar in some respects to the Variable Benchmark Option discussed above. While the Texas PUC does not necessarily support the 25% factor or the suggested benchmarks (\$30/\$50) discussed in U S West's proposal, some other combination of factors and benchmarks might be used to appropriately size and equitably distribute the federal fund.

### **Conclusions**

The Texas PUC appreciates the efforts of the Commission's Common Carrier Bureau to enhance the evidentiary record in this proceeding through the invitation for parties to file comments with regard to these proposals. The universal service funding issue is truly a major dilemma for regulators -- both State and Federal -- and cooperative efforts are bound to produce more desirable results. We urge the Commission to examine these alternatives in view of the common-sense guidelines we offer: a sufficient first step to remove implicit subsidies, equity in targeting support, and the overall impact on customers.

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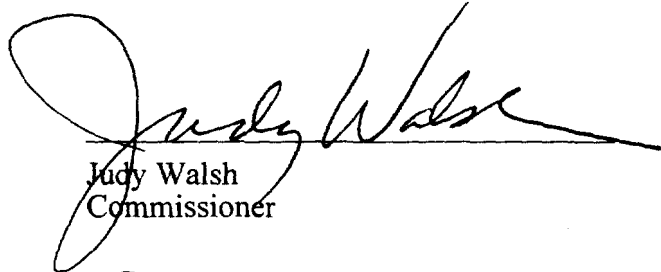
<sup>15</sup> Proposal by US West Communications, Inc. for Adoption of the Interstate High Cost Affordability Plan ("IHCAP"), CC Dockets 96-45 and 97-160, April 27, 1998.



Respectfully submitted,

Public Utility Commission of Texas  
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Austin, Texas 78711-3326

May 6, 1998

A large, stylized handwritten signature in black ink, appearing to read "Judy Walsh".

Judy Walsh  
Commissioner

A handwritten signature in black ink, appearing to read "Patricia A. Curran".

Patricia A. Curran  
Commissioner



**ATTACHMENT A**  
**Summary of Prior Comments of the Texas PUC on Universal Service**

In our Comments<sup>16</sup> to the Notice of Inquiry regarding the USF in CC Docket 80-286 in 1994,<sup>17</sup> and again in our Comments<sup>18</sup> on the Notice of Proposed Rulemaking<sup>19</sup> in that same proceeding in 1995, we highlighted the fact that Texas has many unique geographic and demographic properties that cause our telecommunications carriers to be faced with complex universal service challenges.

In the 1995 Notice of Proposed Rulemaking, the Commission proposed the consideration of four primary principles in evaluating the universal service issue: that assistance should be properly targeted, that assistance should promote efficient investment and operation, that assistance should not impose excessive subsidy costs upon interstate carriers and ratepayers, and that the assistance should not impose barriers to competitive entry into local telecommunications. In responding Comments,<sup>20</sup> the Texas PUC suggested that the Commission consider four additional principles to be used in the evaluation of the universal service program: the support mechanism should be simplified from its current form, it should be easily verifiable, it should minimize reliance on carriers' reported costs, and it should be targeted to the narrowest practical geographic level that requires assistance.

In response to the passage of the Telecommunications Act of 1996,<sup>21</sup> the Commission issued a Notice of Proposed Rulemaking and Order Establishing Joint Board<sup>22</sup> to consider universal service issues. In our Comments in response to that Notice and Order, the Texas PUC reiterated the need for a federal mechanism for support of high cost rural areas.

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<sup>16</sup> Comments of the Public Utility Commission of Texas; *Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board*, Notice of Inquiry, CC Docket No. 80-286; October 27, 1994 (1994 Comments).

<sup>17</sup> *Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board*, Notice of Inquiry, 9 FCC Rcd 7404 (1994).

<sup>18</sup> Comments of the Public Utility Commission of Texas; *Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board*, Notice of Proposed Rulemaking, CC Docket No. 80-286; September 27, 1995 (1995 Comments).

<sup>19</sup> *Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board*, Notice of Proposed Rulemaking, 10 FCC Rcd 12309 (1995).

<sup>20</sup> 1995 Comments, para. 5.

<sup>21</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. §§ 151 et seq.).

<sup>22</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking and Proposed Order Establishing Joint Board, FCC 96-93, March 8, 1996.



On November 7, 1996, the Federal-State Joint Board responded to the charge of the FCC and the FTA96 by adopting a Recommended Decision regarding issues related to universal service.<sup>23</sup> In response to the Joint Board's recommendations on high cost support, the Texas PUC supported the use of forward-looking, long run incremental costs using least-cost technologies, and recommended that support be targeted as narrowly as possible.<sup>24</sup>

In response to the Commission's May 1997 *Universal Service Order*, the Texas PUC filed a Petition for Reconsideration<sup>25</sup> asking that the Commission reconsider its decisions regarding the portion of the high cost amount that will be supported by the interstate program, and that it reconsider the manner in which the support will be retargeted through reductions in interstate access charges.

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<sup>23</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, FCC 96J-3, November 7, 1996.

<sup>24</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Further Comments of the Public Utility Commission of Texas, December 12, 1997.

<sup>25</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Petition for Reconsideration of the Public Utility Commission of Texas, July 15, 1997.